IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7758 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KIRANKUMAR NATWARLAL PANDYA

Versus

STATE OF GUJARAT

Appearance:

MR MH RATHOD for Petitioner

MR HM BHAGAT for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 02/08/2000

ORAL JUDGEMENT

In this matter Rule and notice as to interim relief was issued on 29.12.1999 and ad interim relief was granted on the same day. When the petition has reached hearing today, with the consent of the learned counsel

for both the parties, it is taken up for final hearing.

2 It is not necessary to set out all the facts leading to the filing of this petition in detail in view of the course that this Court proposes to adopt. What is challenged in this petition under Article 226 of the Constitution of India is the order dated 31.3.1995 passed by the Deputy Collector (Stamp Duty), Ahmedabad, as confirmed by the Chief Controlling Revenue AUthority by his order dated 9.9.19997 requiring the petitioner to pay additional stamp duty of Rs.16,100/- plus penalty of Rs.250/-. During the pendency of the appeal before the Chief Controlling Revenue Authority, the petitioner had already deposited the 25% fo the additional stamp duty demanded.

3 The gravamen of the challenge on behalf of the petitioner is that neither the Deputy Collector nor the Chief Controlling Revenue Authority have passed any speaking order giving reasons or dealing with the submissions made by the petitioner and the material produced by the petitioner before the Deputy Collector. There appears to be substance in the said contention. Therefore, it is just and proper to quash and set aside both the impugned orders and the matter is remanded to the Deputy Collector (Stamp Duty) for fresh consideration and decision in accordance with law after giving the petitioner a reasonable opportunity of being heard.

It is clarified that this opportunity will also include disclosure of the information on the basis of which the Deputy Collector has issued the notice so that the petitioner can get adequate opportunity to produce such evidence as he may consider necessary for meeting with the case of the respondents.

In view of the fact that the petitioner has already deposited 25% of the additional duty as per the order which is quashed by this order, it would be just and proper to direct the Deputy Collector to decide the matter within a period of 3 months from today. If such decision is not rendered in spite of the cooperation to be extended by the petitioner, it will be open to the petitioner to file a Misc. Civil Application for return of 25% of the amount. In case the petitioner succeeds in the matter, the said amount will be refunded to the petitioner or shall be adjusted according the outcome of the proceedings.

Rule is made absolute to the aforesaid extent with no order as to costs.

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(mohd)